

**In the
Indiana Supreme Court**



IN THE MATTER OF THE)
)
APPROVAL OF LOCAL RULES) Case No. 02S00-10 12 -MS- 672
)
FOR ALLEN COUNTY)

ORDER APPROVING AMENDED LOCAL RULES

The Judges of the Allen Circuit and Superior Courts request the approval of amended local rules for caseload allocation in accordance with Ind. Administrative Rule 1(E). Attached to this Order are the proposed amended local rules.

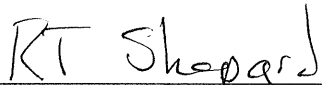
Upon examination of the proposed rule amendments requested by the Allen Circuit and Superior Courts, this Court finds that the proposed rule amendments, LR02-AR1E-1 and LR02-CR2.2-1 comply with the requirements of Ind. Administrative Rule 1(E), and, accordingly, should be approved and posted in the county clerk's office(s) and on the county clerk's website, if any, and on the Indiana Judicial Website.

IT IS, THEREFORE, ORDERED by this Court that amended Local Rules LR02-AR1E-1 and LR02-CR2.2-1 for Allen County Courts, set forth as an attachment to this Order, are approved effective January 1, 2011. The Clerk of this Court is directed to forward a copy of this Order to the Hon. Thomas J. Felts, Allen Circuit Court, 715 South Calhoun Street, #300, Fort Wayne, IN 46802-1805; the Hon. David Avery, Allen Superior Court, 715 South Calhoun Street, #319, Fort Wayne, IN 46802-1805; the Hon. Nancy Eshcoff Boyer, Allen Superior Court, 715 South Calhoun Street, #325, Fort Wayne, IN 46802-1805; the Hon. Frances C. Gull, Allen Superior Court, 715 South Calhoun Street, #314, Fort Wayne, IN 46802-1805; the Hon. Daniel G. Heath, Allen Superior Court, 715 South Calhoun Street, #316, Fort Wayne, IN 46802-1805; the Hon. Stanley A. Levine, Allen Superior Court, 715 South Calhoun Street, #317, Fort Wayne, IN 46802-1805; the Hon. Charles F. Pratt, Allen Superior Court, 715 South Calhoun Street, #208, Fort Wayne, IN 46802-1805; the Hon. Kenneth R. Scheibenberger, Allen Superior Court, 715 South Calhoun Street, #305, Fort Wayne, IN

46802-1805; the Hon. Stephen M. Sims, Allen Superior Court, 2929 Wells Street, Fort Wayne, IN 46808; the Hon. John F. Surbeck, Jr., Allen Superior Court, 715 South Calhoun Street, #302, Fort Wayne, IN 46802-1805; to the Clerk of the Allen Circuit Court; and to the Division of State Court Administration. The Clerk is also directed to post this Order on the Court's website.

The Clerk of the Allen Circuit Court is directed to enter this Order and attachment in the Record of Judgments and Orders for the Courts, to post this Order and attachment for examination by the Bar and the general public, and if available, to publish this Order and attachment on the county clerk's website.

DONE at Indianapolis, Indiana, this 10th day of December, 2010.



Randall T. Shepard
Chief Justice of Indiana

2010-2011 CASELOAD ALLOCATION PLAN FOR ALLEN COUNTY COURTS

LR02-AR1E-1 Allen County Caseload Allocation Plan

(A) Domestic Relations (DR) cases with self represented litigants

New cases filed with the Clerk of the Allen Superior and Circuit Court on a Verified Petition for Dissolution of Marriage without legal representation shall be assigned on an alternating basis (every other case) to Superior Court 8 and Circuit Court respectively.

(B) Mortgage Foreclosures (MF)

- (1) 10% shall be filed in Circuit Court, and
- (2) 90% shall be filed in Superior Court, divided evenly among the four judges of the Civil Division (Superior 1, Superior 2, Superior 3, and Superior 9).

(C) Civil Collections (CC)

Civil Collection (CC) cases shall be assigned in the proportion of 100% in Superior Court, divided evenly among the four judges of the Civil Division (Superior 1, Superior 2, Superior 3 and Superior 9).

(D) Criminal Cases:

- (1) All felony and misdemeanor cases are allocated as provided By LR02-CR2.2-1.
- (2) All infractions (IF), and ordinance violations (OV, OE) shall be filed in Superior Court.
- (3) All Superior FD cases shall be allocated as follows: 50% Superior 4, 30% Superior 5 and 20% Superior 6.

(E) Other Civil Cases

- (1) All small claims (SC), mental health (MH), guardianships (GU), estates (EU/ES), trusts (TR), and protection orders (PO) shall be filed in Superior Court.
- (2) Civil plenary (PL) cases may be filed in Circuit Court or Superior Court. Superior PL cases shall be divided equally among Superior 1, Superior 2, Superior 3 and Superior 9.
- (3) All MH cases shall be divided equally among Superior 1, Superior 2, Superior 3 and Superior 9.

(F) Civil Tort (CT)

100% civil tort claims (CT) will be filed with the Superior Court, divided equally among Superior 1, Superior 2, Superior 3 and Superior 9.

(G) Civil Miscellaneous (MI)

Property tax cases, property forfeiture cases and name change cases shall be filed in Circuit Court. All other civil miscellaneous (MI) cases shall be filed in Superior Court.

(H) Juvenile Cases

- (1) All juvenile CHINS (JC), juvenile delinquency (JD), juvenile status (JS), juvenile termination (JT), juvenile miscellaneous (JM) and adoptions (AD) shall be filed in Superior Court.
- (2) Juvenile paternity (JP) cases may be filed in Circuit Court or Superior Court.

(I) Other Family Cases

- (1) Domestic relations (DR) and reciprocal support (RS) cases may be filed in Circuit Court or Superior Court.
- (2) Of the DR cases filed in Superior Court 75% shall be filed in Superior 7 and 25% in Superior 8.

ASSIGNMENT OF CRIMINAL CASES

Pursuant to CR 2.2 Effective January 1, 2005, Criminal cases filed in Allen County, Indiana shall be before the Court herein designated as follows:

(A) Original Assignments-Charged by Information

1. All Criminal cases filed by information, charging an offense of:
 - a) Operating a Motor Vehicle With Lifetime Suspension, a Class C Felony, I.C. 9-30-10-17;
 - b) Operating While Intoxicated, a Class D felony, I.C. 9-30-5-3;
 - c) Operating Vehicle as Habitual Traffic Violator, a Class D felony I.C. 9-30-10-16;
 - d) Criminal Non-Support of Dependents, I.C. 35-46-1-5 through I.C. 35-46-1-7;shall be filed before the Allen Circuit Court.
2. All other criminal cases, filed by Information, other than those filed before the Allen Circuit Court pursuant to Paragraph 1 above, shall be filed in the Allen Superior Court, Criminal Division.
3. Unless pendent to a felony, all misdemeanors shall be filed in the Misdemeanor and Traffic Division of the Allen Superior Court, Criminal Division.
4. Within the Allen Superior Court, Criminal Division, felony offenses shall be filed as follows:
 - a) Two (2) Judges shall preside over all Murder, Class A, B and C felonies, excluding Drug cases.
 - b) One (1) Judge shall preside over all Class D Felonies, and over all Drug cases not assigned to the Drug Court Intervention Program.
5. Designation of Judges to the categories, referred to in Section 4(a) & (b), shall be by Order of the Judges of the Allen Superior Court, Criminal Division, to be made on or before May 1, 1995 and annually prior to January 1 each year thereafter.

(B) Original Assignment-Indictment By Grand Jury

All criminal prosecutions, investigated and by True Bill returned as a Grand Jury indictment, shall be filed in the respective Criminal Courts of Allen County as provided in Paragraph A above.

(C) **Assignment By Transfer**

Transfers of cases may be made between the Allen Circuit Court and the Allen Superior Court, Criminal Division, at the discretion of and with the consent of respective Judges of said Courts to accommodate the respective work load of said judges. Said transfers shall be made pursuant to I.C. 33-33-2-25 and I.C. 33-33-2-26.

Transfers of individual cases may be made among Judges of the Allen Superior Court, Criminal Division, at the discretion of and with the consent of said Judges to accommodate the respective work loads of said Judges.

(D) **Assignment by Change of Venue [CR 12(B)]**

In the event of disqualification, recusal, or other change of Judge, the case shall be reassigned in random order in equal numbers to one of the Judges exercising Felony or Misdemeanor jurisdiction in Allen County. A Judge who previously served in the case is not eligible for reassignment.

In the event no Judge is available for reassignment of a Felony or Misdemeanor case, such case shall be certified to the Indiana Supreme Court for the appointment of a Special Judge. In the event the Judge presiding in a Felony or Misdemeanor case concludes that the unique circumstances presented in such proceeding require appointment by the Indiana Supreme Court of a Special Judge, the presiding Judge may request the Indiana Supreme Court for such appointment.

(E) **Miscellaneous**

Cases dismissed and re-filed shall be filed or assigned to the Judge presiding at the time of the dismissal, regardless of the foregoing rules of assignment.

This rule may be modified upon order and notice of a minimum of 30 days by the Allen Circuit Court or the majority of the Judges of the Allen Superior Court, Criminal Division. Following such an order of modification, should the Judges of the Allen Circuit and Allen Superior Court, Criminal Division fail to adopt a new plan pursuant to CR2.2 within 30 days, the Supreme Court of Indiana shall be notified.

Adopted effective April 11, 1995. Amended September 28, 2010, effective January 1, 2011.